

**ROBERT L FOLKS & ASSOCIATES, LLP**  
**ATTORNEY AT LAW**

**510 Broad Hollow Road, Suite 304A**  
**Melville, New York 11747**

**ROBERT L. FOLKS**  
**CYNTHIA A. KOURIL**

(631) 845-1900  
Telecopier: (631) 845-8779

**THOMAS L. COSTA**  
Of Counsel

December 18, 2009

Via Facsimile (631) 712-5725  
Honorable William D. Wall  
United States District Court, E.D.N.Y.  
100 Federal Plaza  
Central Islip, New York 11722

*Re: Novak v. Active Window Publications, Inc., et al.*  
*Index No. CV 01 3566*

Dear Judge Wall:

Today Mr. Novak informed me that he does not intend to appear at the deposition he requested, and which you ordered, for Monday December 21, 2009 and wants to reschedule.

Both Mr. Rosenstein and myself completely reorganized our schedules to accommodate the deposition on such short notice. I have other obligations the rest of next week, as does my client, and cannot hope to reschedule, again, at the last moment.

Mr. Novak is leaving for vacation on December 23, 2009. He expects me to be able to make the 22<sup>nd</sup> available on almost no notice. I have another client in the middle of contract negotiations that must be concluded next week that is expected full days for me on December 22 and 23<sup>rd</sup> and is already unhappy about losing my time on the 21<sup>st</sup>. I obviously will need the day before the deposition to prep my client, to move the deposition to Tuesday would either necessitate two trips to Boston, one to prep over the weekend and another on the 22<sup>nd</sup> doubling my clients costs or would cause me to be in Boston on the 21<sup>st</sup> and the 22<sup>nd</sup>. This is impossible to do without prejudicing my other client.

Mr. Novak apparently objects to driving up in the snow storm expected on Sunday the 20<sup>th</sup>. I suggested alternatives to him, such as a train. Alternately, he could go up on Saturday before the storm begins.

Rescheduling on the 11<sup>th</sup> hour like this is unreasonable. I have made all sorts of arrangement for childcare, etc. to accommodate this deposition and now Mr. Novak is using a possibility of a storm as excuse to create havoc and expects me to be able to rebuild all these arrangement on virtually no notice.

I don't believe it is possible to that and request that the deposition remain as scheduled.

Respectfully,

/s/ Cynthia A. Kouril  
Cynthia A. Kouril (4899)

RLF:rdg

cc: Robert Novak  
via Facsimile (631) 789-9340